

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WALTER WILLIAM BOYD, SR.,)	
)	Civil Action No. 10 - 1295
Plaintiff,)	
)	
v.)	District Judge Donetta W. Ambrose
)	
LOUIS S. FOLINO, ET AL.,)	
)	
Defendants.)	

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* (ECF No. 1) on September 30, 2010, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On October 21, 2010, the magistrate judge filed a Report and Recommendation (ECF No. 9) recommending that the Court Order granting Plaintiff's motion to proceed in forma pauperis (ECF No. 4) be vacated, that Plaintiff's motion to proceed in forma pauperis (ECF No. 1) be denied in accordance with 28 U.S.C. § 1915(g) and that this action be dismissed for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full \$350.00 filing fee within sixty (60) days. It further recommended that Plaintiff's pending motion for appointment of counsel (ECF No. 7) be denied as moot. Plaintiff filed Objections to the Report and Recommendation on November 5, 2010 (ECF No. 10). Plaintiff's Objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16th day of November, 2010;

IT IS HEREBY ORDERED that the Court Order granting Plaintiff's motion to proceed in forma pauperis (ECF No. 4) is **VACATED**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Proceed *In Forma Pauperis* is **DENIED** in accordance with 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that this action is **DISMISSED** for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full \$350.00 filing fee within sixty (60) days.

IT IS FURTHER ORDERED Plaintiff's pending motion for appointment of counsel (ECF No. 7) is **DENIED** as moot.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF. No. 9) dated October 22, 2010, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Donetta W. Ambrose
United States District Judge

cc: Walter William Boyd, Sr.
EA-6059
S.C.I. Greene
175 Progress Drive
Waynesburg, PA 15370